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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/701,495

11/06/2003

Jean-Baptiste Galey

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06/11/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
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ALEXANDRIA, VA 22314

EXAMINER

HENRY, MICHAEL C

ART UNIT

PAPER NUMBER

1623

NOTIFICATION DATE

DELIVERY MODE

06/11/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/701,495	<b>Applicant(s)</b> GALEY, JEAN-BAPTISTE	
	<b>Examiner</b> MICHAEL C. HENRY	<b>Art Unit</b> 1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,10,13 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,10,13 and 19-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/21/09</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/21/09 has been entered.

The following office action is a responsive to the amendment filed, 04/21/09.

The amendment filed 04/21/09 affects the application, 10/701,495 as follows:

1. Claims 1, 4, 13, 19 and 20 have been amended. Claims 2, 3, 5, 6, 8, 9, 11, 12, 14, 15, 17, 18, 22 and 23 have been canceled. Applicants' amendments have overcome the rejections made under 35 U.S.C. 102(b) with Lapinet et al. and 35 U.S.C. 103(a) with Dobson et al. Consequently, the said rejections are withdrawn.

However, a new ground(s) rejection is set forth herein below.

2. The responsive to applicants' arguments is contained herein below.

Claims 1, 4, 10, 13, 19-21 are pending in application

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms “analogue” renders the claims indefinite. More specifically, in the absence of the specific analogues to the chemical core claimed (CCC) or distinct language to describe the structural modifications or the chemical names of the analogues of this invention, the identity of said analogues would be difficult to describe and the metes and bounds of said analogues that applicant regard as the invention cannot be sufficiently determined because they have not been particularly pointed out or distinctly articulated in the claims. Therefore, the identity of this composition component is indefinite. Furthermore, the term “analogue” in all occurrences is seen to be indefinite where applicant fails to provide how the core compound is modified to obtain some analogue version which is intended to be an integral part of the composition claimed.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 10, 13, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoenrock et al. (DE19545107 (A1), English Machine Translation).

Claim 1 is drawn to a method for softening expression lines on a face and/or forehead in need thereof, comprising topically applying a composition to one or more zones of the face or forehead marked with expression lines a composition comprising a physiologically acceptable medium, and 0.1% to 10% by weight of adenosine with respect to the total composition weight. Claims 4 is drawn to said method wherein the composition comprises specific % by weight of

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adenosine with respect to the total composition weight. Dependent claims 10, 13, 19-21 are drawn to a method wherein the composition has a specific relaxing effect, specific % by weight of adenosine, the use of an adenosine analogue in the said composition and the topical application to the skin an effective amount of said composition to reduce laugh lines and/or reduce frown lines.

Schoenrock et al. disclose a method of increasing cell proliferation in human skin or combatting and easing the symptoms of exogenic skin aging by applying adenosine (especially in cosmetic and dermatological preparations) to the skin (see abstract, description and claims). Furthermore, Schoenrock et al. disclose that adenosine can be used in concentrations from 0.01% to 10 % (see claims and description). In addition, Schoenrock et al. disclose or suggest that adenosine analogue such as cAMP can be used as a skin humidity increasing substance (see description). It should be noted that the application of the composition to skin also encompasses the skin on the face and forehead and especially since that is where wrinkles (including expression lines) generally occur. Furthermore, "expression lines" are referred to as types of wrinkles. That is, expression lines are wrinkles. Applicant's attention is drawn to Exhibit A and B which disclose that expression lines are forms of wrinkles. Exhibit A states that "The wrinkles that seem to bother us most are "character" or "expression" lines" (see page 1, 1<sup>st</sup> line of 2<sup>nd</sup> paragraph). In addition, Exhibit B states that "Natural expressions that use specific facial muscles may cause some wrinkles called "expression lines" to reappear" (see page 4, 2<sup>nd</sup> paragraph, lines 2-3). Thus, these exhibits disclose that expression lines are wrinkles. It must also be noted that Schoenrock et al. apply the same composition to the skin of the same subject as applicant and consequently it should have the same inherent effect of softening of expression lines. Schoenrock et al.'s composition also reduces wrinkles (which includes frown lines and laugh lines-types of

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wrinkles) and contains adenosine (see claim 1 and claims 2-10). It should be noted that the application of the composition to skin also encompasses the skin on the face and forehead and especially since that is where wrinkles (including expression lines) generally occur. Furthermore, Applicant's attention is drawn to Exhibit C which discloses that expression lines and frown lines are different forms of wrinkles (i.e., dynamic wrinkles). For example, Exhibit C states that "Dynamic wrinkles typically form across the **forehead**, between the eyebrows (**frown lines**), and on the sides of the eyes ("crow's feet") (see page 1, 2<sup>nd</sup> paragraph and entire article).

The difference between applicant's claimed method and the method of Schoenrock et al. is that Schoenrock et al. do not disclose softening expression lines on a face and/or forehead, per se. However, Schoenrock et al. disclose that the adenosine can be used to treat the symptoms of exogenic skin aging which suggest or implies that adenosine (especially in cosmetic and dermatological preparations) can be used to treat dryness, itchiness, thinning or thickening of the skin, wrinkles and fine lines, areas of hyperpigmentation (called age or liver spots), and a mottled appearance which are the symptoms of skin aging.

It would have been obvious to one having ordinary skill in the art, at the time the claimed invention was made to have used the method of Schoenrock et al. to treat the symptoms of aging skin such as wrinkles or expression lines on said face and/or forehead with a composition comprising adenosine, and to use different % by weight of adenosine at the required location, based on factors like the severity of the skin or facial condition (such as wrinkles or expression lines), and the kind of subject or mammal being treated.

One having ordinary skill in the art would have been motivated to use the method of Schoenrock et al. to treat the symptoms of aging skin such as wrinkles or expression lines on said face and/or forehead with a composition comprising adenosine, and to use different % by

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weight of adenosine at the required location, based on factors like the severity of the skin or facial condition (such as wrinkles or expression lines), and the kind of subject or mammal being treated.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 4, 10, 13, 19-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Henry whose telephone number is 571-272-0652. The examiner can normally be reached on 8.30am-5pm; Mon-Fri. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael C. Henry  
June 5, 2009.

/Shaojia Anna Jiang/  
Supervisory Patent Examiner  
Art Unit 1623